

Chapter 412

(Senate Bill 432)

AN ACT concerning

Public Libraries – Electronic ~~Book~~ Literary Product Licenses – Access

FOR the purpose of requiring a publisher who offers to license an electronic ~~book~~ literary product to the public to also offer to license the electronic ~~book~~ literary product to public libraries in the State on reasonable terms that would enable public libraries to provide library users with access to the electronic ~~book~~ literary product; ~~requiring authorizing~~ the terms of a license authorizing public libraries to provide access to an electronic ~~book~~ literary product to include certain limitations and measures; prohibiting the terms of a license from including a limitation on the number of licenses public libraries may purchase on the same date an electronic ~~book~~ literary product license is made available to the public; providing that a violation of this Act shall constitute an unfair, abusive, or deceptive trade practice subject to certain enforcement; defining certain terms; providing for a delayed effective date; and generally relating to electronic ~~book~~ literary product licenses.

BY adding to

Article – Education

Section 23–701 and 23–702 to be under the new subtitle “Subtitle 7. Electronic ~~Book~~ Literary Product Licenses”

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education

SUBTITLE 7. ELECTRONIC ~~BOOK~~ LITERARY PRODUCT LICENSES.

23–701.

(A) IN THIS SUBTITLE THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(B) “ELECTRONIC ~~BOOK~~ LITERARY PRODUCT” MEANS ~~A TEXT DOCUMENT THAT HAS BEEN; CONVERTED~~

(1) ~~CONVERTED~~ A TEXT DOCUMENT THAT HAS BEEN CONVERTED INTO OR PUBLISHED IN A DIGITAL FORMAT THAT IS READ ON A COMPUTER, TABLET, SMART PHONE, OR OTHER ELECTRONIC DEVICE; OR

(2) ~~READ ALOUD AND RECORDED~~ AN AUDIO RECORDING OF A TEXT DOCUMENT, READ OUT LOUD IN A FORMAT THAT IS LISTENED TO ON A COMPUTER, TABLET, SMART PHONE, OR OTHER ELECTRONIC DEVICE.

(C) “PUBLISHER” MEANS A PERSON IN THE BUSINESS OF MANUFACTURING, PROMULGATING, AND SELLING BOOKS, AUDIO BOOKS, JOURNALS, MAGAZINES, NEWSPAPERS, OR OTHER LITERARY PRODUCTIONS, INCLUDING THOSE IN DIGITAL FORM, THAT CONSIST OF TEXT, IMAGERY, ~~OR BOTH~~ AUDIO RECORDINGS, OR ANY COMBINATION OF TEXT, IMAGE, AND AUDIO RECORDING.

(D) “UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICES” HAS THE MEANING STATED IN § 13-301 OF THE COMMERCIAL LAW ARTICLE.

23-702.

(A) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, A PUBLISHER WHO OFFERS TO LICENSE AN ELECTRONIC ~~BOOK~~ LITERARY PRODUCT TO THE PUBLIC ALSO SHALL OFFER TO LICENSE THE ELECTRONIC ~~BOOK~~ LITERARY PRODUCT TO PUBLIC LIBRARIES IN THE STATE ON REASONABLE TERMS THAT WOULD ENABLE PUBLIC LIBRARIES TO PROVIDE LIBRARY USERS WITH ACCESS TO THE ELECTRONIC ~~BOOK~~ LITERARY PRODUCT.

(B) THE TERMS OF A LICENSE UNDER SUBSECTION (A) OF THIS SECTION ~~SHALL~~ MAY INCLUDE:

(1) A LIMITATION ON THE NUMBER OF USERS A PUBLIC LIBRARY MAY SIMULTANEOUSLY ALLOW TO ACCESS AN ELECTRONIC ~~BOOK~~ LITERARY PRODUCT;

(2) A LIMITATION ON THE NUMBER OF DAYS A PUBLIC LIBRARY MAY ALLOW A USER TO ACCESS AN ELECTRONIC ~~BOOK~~ LITERARY PRODUCT; AND

(3) THE USE OF TECHNOLOGICAL PROTECTION MEASURES THAT WOULD PREVENT A USER FROM:

(I) MAINTAINING ACCESS TO AN ELECTRONIC ~~BOOK~~ LITERARY PRODUCT BEYOND THE ACCESS PERIOD SPECIFIED IN THE LICENSE; AND

(II) ALLOWING OTHER USERS TO ACCESS AN ELECTRONIC ~~BOOK~~ LITERARY PRODUCT.

(C) THE TERMS OF A LICENSE UNDER SUBSECTION (A) OF THIS SECTION MAY NOT INCLUDE A LIMITATION ON THE NUMBER OF ELECTRONIC ~~BOOK~~ LITERARY

PRODUCT LICENSES A PUBLIC LIBRARY MAY PURCHASE ON THE SAME DATE THE ELECTRONIC ~~BOOK~~ LITERARY PRODUCT LICENSE IS MADE AVAILABLE TO THE PUBLIC.

(D) A VIOLATION OF THIS SUBTITLE SHALL CONSTITUTE AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE AND IS SUBJECT TO ENFORCEMENT IN ACCORDANCE WITH TITLE 13, SUBTITLE 4 OF THE COMMERCIAL LAW ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July 1, 2021~~ January 1, 2022.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.